



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION
PO Box 40927 • Olympia, Washington 98504-0927
(360) 407-1050 • FAX (360) 407-104

MEETING SUMMARY

Sex Offense Statute of Limitations Community Discussion
September 26, 2008
Washington State Criminal Justice Training Center

AD HOC COMMITTEE MEMBERS:

Senator Adam Kline, Linda Ring-Erickson, Mary Ellen Stone, Tim Killian, Jeri Costa (excused).

STAFF:

Jean Soliz-Conklin, Executive Director; Andi May, Stevie Peterson, Teresa Waller, Shannon Hinchcliffe.

ATTENDEES:

Dave Boerner, Chair, Sentencing Guidelines Commission; Don Barlow, State Representative; Vicki Anderson, Center for Advocacy; Shani Bauer, Senate Committee Services; Don Brockett, Attorney; Timothy Kosnoff, Citizen; Ozzie Krezovich, Spokane Sheriff's Office; Linda King, Barlow Campaign; Patricia Laydon, Citizen; Mark Mains, Citizen; Todd Maybron, Citizen; Susie Moran, Citizen; Jeff Tower, Spokane Sheriff's Office; Brad Meryhew, Washington Association Counsel of Defense Lawyers; Lidia Mori, Senate Judiciary Committee; Bonnie Muccilli, Department of Corrections; Lindsay Palmer, King County Sexual Assault Resource Center; Amy Pearson, Office of Crime Victim's Advocacy; Dexter H., Department of Corrections; Toby Shulruff, Washington Coalition of Sexual Assault Programs; Yvonne Walker, House of Representatives; Lara Zarowski, OPR, Washington House of Representatives; Jill Severn, Communications Consultant.

SUMMARY OF COMMUNITY TESTIMONY

The meeting began at approximately 9:00 a.m., Chairperson Lynda Ring Erickson, Mary Ellen Stone, Senator Adam Kline, and Tim Killian, were present from the subcommittee. Approximately 31 people signed in for the meeting.

Subcommittee members introduced themselves. At the chair's request Ms. Soliz-Conklin explained the role of the SGC and the subcommittee's charge to make recommendations to the full Commission and ultimately the legislature regarding sex offense statute of limitations. Ms. Soliz-Conklin and Chair Ring Erickson welcomed all comments.

A panel of several community members spoke in favor of eliminating all criminal statute of limitations for sex offenses against children. Don Brockett, former Spokane County Prosecutor made several points: 1) The process starts with determining the how important the crime is and how long to seek justice; 2) eliminating statute of limitations is for the safety and protection of children; 3) that statute of limitations should be abolished to increase deterrence and identify the molester so the community can know his status; 4) Prosecutors will still decline to prosecute if the case does not have enough evidence to be pursued.

Spokane County Sheriff Ozzie Knezovich also spoke in favor of the elimination of statute of limitations. He explained that the current statute imposes a timeframe in which some of those who are molested are still dependent on their families when the statute of limitations runs. This leaves victims who have been molested by family members in a difficult situation because they may not feel free to report while they are still within or substantially connected to their family.

A man in his late-40's from Spokane, spoke of his experience as a 12 year old boy who was sexually molested and raped by a catholic priest. He explained that his case would not have fallen within the statute of limitations, because he had not acknowledged or processed the events until many years after they had run out. It took until he was about 40 until he was able to acknowledge the event. He explained that as a child, the adult has power over a child and the power does not shift just because the child turns into an adult. He had a lot of fear about coming forward; however once he decided to come forward it has been a tremendous healing process. He found out that his offender was offering a family counseling practice where he might have access to children. He believes that other children are or may be at risk because no one knows about this person's history and he cannot be prosecuted.

A civil attorney spoke of his experience with child sex abuse cases and child sex abuse victims. He argued that child sexual abuse syndrome shows that kids do not understand or connect the reality of what happened to them until many years later. The cases he sees day in and day out are of acquaintance molestation.

A grandmother spoke of her two grandchildren who had been victimized for several years by their father. She made reference to the lasting effects of the trauma and PTSD. Her granddaughter is still very young and she is afraid that her granddaughter will not be able to come forward about her abuse to authorities until it is too late to prosecute.

Representative Don Barlow spoke in favor of the comments and the elimination of the statutes of limitation. He has previously proposed a bill in the house that did not pass, and plans to reintroduce the bill next session.

Another audience member did not advocate for a specific position on statutes of limitations but explained that "justice" is a difficult idea because the perpetrator is a human being. She spoke of her personal experience of knowing a man who had committed an offense and was trying to rehabilitate but was stamped as a sexual offender and cannot find a place to live or work. Perpetrators should be seen as human beings.

A private criminal defense attorney commented that he believes the legislature was thoughtful in their time limits and does not see a reason for change. He explained that these cases are extremely difficult to defend and often they are he/she said - he/she said. They are particularly difficult for those who are wrongfully accused. Prosecutors are extremely aggressive with these cases and the further from the events, the harder it is to locate records or information that is useful in a defense. Finding people to present facts becomes more and more difficult and although we want to protect children, we have a duty to make sure that justice is fair for all involved.

Toby Shulruff, representing Washington Coalition of Sexual Assault Programs (WCSAP), voiced their willingness to support victims in any stage. Ms. Shulruff explained that effects of child sexual abuse last a lifetime. WCSAP has supported efforts to eliminate civil and lengthen criminal statute of limitations. This issue has been among their policy priorities for many years. WCSAP acknowledges that the ability to understand and cope with traumatic experiences is different as people age and victims of ongoing abuse often do not feel safe enough to speak out until they are no longer dependent on their abuser.

Lindsay Palmer, Education Director of the King County Sexual Assault Resource Center, explained that sexual assault includes looking at issues of manipulation, coercion, and intimidation in child sex abuse cases. She said that we are lucky live in a state with a sexual assault program in every county to support those victims.

Other comments and suggestions were discussed. One attorney added that a new evidence rule had recently passed that allows admission of evidence of the defendant's commission of another sex offense or sex offense in a sex offense case. This is new as previously it would have to be a conviction to be admitted as evidence. Suggestions of educating the public and children to disclose were made.

Dialogue between committee members and the audience included explanations that statutes of limitation exist in the law for a number of reasons, including the practical limitations on prosecuting a case after many years and the likelihood of unfairly raising the expectation of victims. Our justice system also protects fairness to defendants, who may have serious difficulty defending themselves when calendars are gone and witnesses have disappeared after many years have passed. Those in attendance agreed that avoiding "he said - she said" prosecutions is a priority for all parties.

At the conclusion of the meeting, the Chair requested staff to set up a teleconference so the sub-committee could make a decision that would be discussed with the full Commission.